

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

AVANTE INTERNATIONAL TECHNOLOGY CORP.,)
)
)
Plaintiff,)
)
)
vs.) Case no: 4:06cv0978 TCM
)
PREMIER ELECTION SOLUTIONS, INC., and SEQUOIA VOTING SYSTEMS,)
)
)
Defendants.)
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AVANTE INTERNATIONAL TECHNOLOGY CORP.,)
)
)
Plaintiff,)
)
)
vs.) Case no: 4:08cv1367 TCM
)
PREMIER ELECTION SOLUTIONS, INC., and SEQUOIA VOTING SYSTEMS,)
)
)
Defendants.)

ORDER

This case is before the Court on the motion of Plaintiff, Avante International Technology, Inc. ("Avante") to sever issues in 4:06cv0978 relating to its U.S. Patent No. 7,036,730 (the '730 patent) from the issues relating to its optical scanning technology. The former issues were resolved adversely to Avante by the Court's rulings on competing motions for summary judgment. The latter issues were resolved adversely to Avante by a jury. Avante has moved for judgment as a matter of law on those issues or, alternatively, for a new trial. In the pending motion, Avante wants to sever the former issues from the latter "for separate post-trial consideration and possible

appeal." Because the issues in 4:08cv1367 also relate to the '730 patent, Avante wants to stay that case pending the outcome of the post-trial proceedings and possible appeal in 4:06cv0978, citing considerations of inefficiency for all parties.¹

In previous orders, the Court has noted the case management difficulties visited on the Court and the parties by Avante's decision to sue in the earlier case three defendants for violations of three patents. The time between the filing of Case No. 4:06cv0978 and the jury's verdict was thirty-two months, during which Avante filed three amended complaints and asked for leave to file a fourth, the parties filed a total of seven motions for summary judgment, and the jury heard six days of testimony. The Court is not unsympathetic to Avante desiring to finally resolve issues relating to the '730 patent in the one case before these issues are revisited in the second case. Considerations of fairness to all parties, however, militate against a severance and a stay.

Accordingly, for the foregoing reasons,

IT IS HEREBY ORDERED that Plaintiff Avante International Technology, Inc.'s motion to sever in Case No. 4:06cv0978 and to Stay Case No. 4:08cv1367 is **DENIED**. [Docs. 689 in 4:06cv0978, 51 in 4:08cv1367]

/s/ Thomas C. Mummert, III
THOMAS C. MUMMERT, III
UNITED STATES MAGISTRATE JUDGE

Dated this 16th day of June, 2009.

¹The Court notes that it expects to rule on the post-trial motions in 4:06cv0978 within the next two months.